

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL DEAN STILL, *pro se*,

Plaintiff,

v.

MICHAEL FINNERTY, LUDWIG
FLEMMING, LINDA FINNERTY, and KMB
SHAMROCK, INC.,

Defendants.

CIVIL ACTION NO. 3:06-CV-0167

(JUDGE CAPUTO)

MEMORANDUM ORDER

Plaintiff, Michael Dean Still, commenced this *pro se* action on January 23, 2006, alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), *et seq.*, and the Pennsylvania Human Relations Act, 43 PA. CONN. STAT. ANN. § 951, *et seq.* (Doc. 1.) Defendants are Michael Finnerty, Ludwig Flemming, Linda Finnerty, and KMB Shamrock, Inc. ("KMB"). Defendants Michael Finnerty, Ludwig Flemming, and Linda Finnerty are employees of Defendant KMB.

Presently before the Court is Defendants' Motion to Dismiss Claims Against Certain Defendants (Doc. 6). In the motion, Defendants seek dismissal of Plaintiff's claims against Defendants Michael Finnerty, Ludwig Flemming, and Linda Finnerty. Although Plaintiff's brief in opposition is now overdue, he has neither made an appropriate filing nor requested an extension of time in which to do so.

A dispositive motion generally may not be granted merely because it is unopposed. Since Local Rules of Court must be "construed and applied in a manner consistent with the Federal Rules of Civil Procedure," *Anchorage Assoc. v. Virgin Islands Board of Tax Review*, 922 F.2d 168, 174 (3d Cir. 1990), the disposition of an unopposed

motion ordinarily requires a merits analysis. The Court of Appeals for the Third Circuit has stated, however, that Local Rule 7.6 can be applied to grant a motion to dismiss without analysis of the complaint's sufficiency "if a party fails to comply with the rule after a specific direction to comply from the court." *Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991).

Local Rule 7.6 provides that if a party fails to file an opposing brief within fifteen (15) days after service of the movant's brief, the motion will be deemed unopposed. Based on his failure to take any action in response to motion to dismiss, it would appear that Plaintiff may have abandoned interest in pursuing this matter. However, the Court will grant additional time for the Plaintiff to respond to the motion and direct him to file a brief in opposition and a counter-statement of facts within twenty (20) days. If Plaintiff fails to oppose the motion or otherwise communicate with the Court within twenty (20) days of the date of this Order, the motion to dismiss will be deemed unopposed and granted without a merits analysis.

Therefore, **NOW**, this 17th day of August, 2006, **IT IS HEREBY ORDERED** that Plaintiff shall file a brief in opposition to Defendants' Motion to Dismiss Claims Against Certain Defendants (Doc. 6) within twenty (20) days of the date of this Order. If Plaintiff fails to file the brief in opposition the Court will deem the motion to dismiss unopposed under M. D. Pa. L. R. 7.6, and will dismiss Plaintiff's claims against Defendants Michael Finnerty, Ludwig Flemming, and Linda Finnerty without a merits analysis. See M.D. Pa. Local Rule 7.6; *Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991).

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge